

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT ALFIERO,

Petitioner,

Civil No. 2:12-CV-15308
HONORABLE GERALD E. ROSEN

v.

THOMAS BIRKETT,

Respondent.

ORDER DENYING MOTION FOR RECONSIDERATION [dkt. #5]

On December 17, 2012, the court denied Petitioner a writ of habeas corpus, finding that his claims were not cognizable because he does not have a constitutional right to be considered for parole. Petitioner has now filed a motion for reconsideration. For the reasons stated below, the court will deny the motion.

Local Rule 7.1(h) allows a party to file a motion for reconsideration. However, a motion for reconsideration which presents the same issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. *Ford Motor Co. v. Greatdomains.com, Inc.*, 177 F. Supp. 2d 628, 632 (E.D. Mich. 2001). The movant must not only demonstrate a palpable defect by which the court and the parties have been misled but also show that a different disposition of the case must result from a correction thereof. A palpable defect is a defect that is obvious, clear, unmistakable, manifest, or plain. *Witzke v. Hiller*, 972 F. Supp. 426, 427 (E.D. Mich. 1997).

Petitioner argues in his motion for reconsideration that the petition should not have been denied because the Michigan Parole Board's actions denying him meaningful consideration for

parole violate state law and violate due process. These arguments were raised in his habeas petition, and the Court considered and rejected them in the opinion and order summarily denying the petition. Because Petitioner is merely presenting issues which were already ruled upon by the court, either expressly or by reasonable implication, when the court denied the motion, the motion for reconsideration will be denied. *See Hence v. Smith*, 49 F. Supp. 2d 547, 553 (E.D. Mich. 1999).

Accordingly, **IT IS ORDERED** that Petitioner's "Motion For Reconsideration" [Dkt. # 5] is **DENIED**.

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: January 31, 2013

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on January 31, 2013, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager